

April 8, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0300444**

DENNIS BELDEN
Code Enforcement Appeal

Location: 12220 Southeast 316th

Appellant: **Dennis Belden**
12220 Southeast 316th
Auburn, Washington 98002
Telephone: (253) 804-4603

King County: Department of Development and Environmental Services, *represented by*
Darren Wilson
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7093
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SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Appeal denied

EXAMINER PROCEEDINGS:

Hearing Opened:	April 6, 2004
Hearing Closed:	April 6, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. On February 26, 2004 the King County Department of Development and Environmental Services, Code Enforcement Section, issued a notice and order to Dennis Belden at 12220 SE 316th Street. The notice and order cites Mr. Belden for an accumulation of inoperable vehicles at a residentially zoned site and the parking and storage of vehicles on non-impervious surfaces. Mr. Belden has filed a timely appeal of the notice and order.
2. Mr. Belden's property is a flat two acre parcel with a house located near its northern boundary and the remainder of the site covered by grasses, blackberries and other shrubs among which are parked various vehicles. Staff estimated that the number of vehicles visible from SE 316th Street was about 40, and Mr. Belden reported that the last time he attempted an inventory he stopped at 50 vehicles and was only about half-finished. So the total number of vehicles on the site is approximately 100.
3. Although the property is now mostly surrounded by newer subdivision homes, it is undisputed that Mr. Belden operated an auto repair business at the site for at least 40 years. Mr. Belden related that he stopped taking in cars from customers for repair about ten years ago and since then has limited his business to collecting, repairing and reselling vehicles from his own inventory. He stated that the repair work is done in a garage appended to his residence. Mr. Belden estimated that he repaired and sold within the last year more than 20 cars and made about \$6,500. The property has been recently sold to a developer who has given Mr. Belden 18 months to clear the property.

CONCLUSIONS:

1. Mr. Belden has at least a limited claim to a legal non-conforming use in his auto repair business to the extent that he is actively conducting it within his garage work space. The scope of his non-conforming use would not, however, entitle him to park vehicles on unimproved surfaces, nor would it extend to the storage of inoperable vehicles that have been sitting inactive long enough that grasses and shrubs have grown over them. The pictures submitted by staff show at least a dozen older vehicles that probably have not been worked on for over a year. Thus, while Mr. Belden, as a non-conforming use in a residential zone, may be entitled to work on cars in his garage in pursuit of his restoration business, the long-term storage of inoperable vehicles on unimproved surfaces is not within the scope of the permitted non-conforming use. Therefore, the appeal must be denied and the notice and order upheld.
2. DDES staff has proposed a generous amount of time for Mr. Belden to remove the vehicles from his property without incurring civil penalties. Staff suggests that no penalties should accrue against Mr. Belden or his property if all of the vehicles are removed by the end of September, 2004. This is more than enough time to get the work done and would bring the property into compliance before the beginning of the next rainy season.

DECISION:

The appeal is DENIED.

ORDER:

1. No penalties shall be assessed against the Appellant or his property if all vehicles parked on non-impervious surfaces are removed from the property by September 30, 2004. The Appellant is advised to consult with DDES staff in establishing a plan for effecting compliance by the above deadline.
2. If all vehicles stored on non-impervious surfaces are not removed from the property by the September, 2004 deadline, DDES may impose penalties on the Appellant and his property retroactive to the date of this order.

ORDERED this 8th day of April, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 8th day of April, 2004, by certified mail to the following party:

Dennis Belden
12220 Southeast 316th
Auburn, Washington 98002

TRANSMITTED this 8th day of April, 2004, to the parties and interested persons of record:

Dennis Belden
12220 SE 316th St.
Auburn WA 98002

Elizabeth Deraitus
DDES/LUSD
Code Enf. Supvr.
MS OAK-DE-0100

Patricia Malone
DDES/LUSD
Code Enf. Section
MS OAK-DE-0100

Heather Staines
DDES/BSO
Code Enf.-Finance
MS OAK-DE-0100

Darren Wilson
DDES/LUSD
Code Enf. Section
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly

commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE APRIL 6, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT
AND ENVIRONMENTAL SERVICES FILE NO. E0300444.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing was Darren Wilson, representing the Department; and Dennis Belden, the Appellant.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report to the Hearing Examiner
- Exhibit No. 2 Copy of the Notice and Order issued February 26, 2004
- Exhibit No. 3 Copy of the appeal received March 3, 2004
- Exhibit No. 4 Copies of codes cited in the Notice and Order
- Exhibit No. 5 Photographs of property

SLS:gao
E0300444 RPT